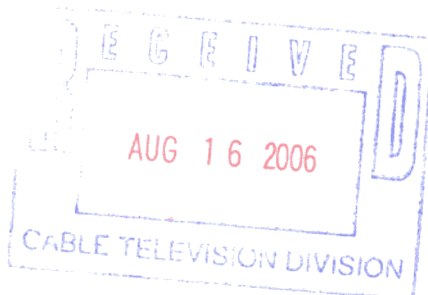




**NEWTON COMMUNICATIONS ACCESS CENTER INC.**  
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August 15, 2006

Ms. Andrea Nixon, Clerk  
Cable Television Division  
One South Station  
Boston, MA 02110

Re: CTV 06-1 and Local Municipal Governments

Dear Ms. Nixon,

Attached are my comments for entry into the record in CTV 06-1, Notice of Public Hearing and Request for Comment by the DTE - Cable Television Division on Proposed Amendments to Rules and Regulations Governing the Cable Television Licensing Process.

Thank you for your attention to this matter. Please do not hesitate to contact me should you require additional information concerning the attached comments

Very truly yours,

A handwritten signature in blue ink, appearing to read "Paul D. Berg".

Paul D. Berg  
Executive Director, NCAC

DEPARTMENT OF TELECOMMUNICATIONS & ENERGY

CABLE TELEVISION DIVISION

Proposed Amendments to )  
Rules and Regulations Governing the )  
Cable Television Licensing Process - )  
Notice of Public Hearing and )  
Request for Comments )

Docket No. CTV 06-1  
August 15, 2006

**COMMENTS OF PAUL D. BERG, EXECUTIVE DIRECTOR, NEWTON COMMUNICATIONS ACCESS CENTER, INC., MEMBER, TOWN OF ARLINGTON SELECTMEN'S CABLE ADVISORY COMMITTEE, AND MEMBER, BOARD OF DIRECTORS, *MassAccess*, THE MASSACHUSETTS CHAPTER OF THE ALLIANCE FOR COMMUNITY MEDIA.**

**I. Introduction**

I comment as a member of the public with considerable experience in cable television licensing in the Commonwealth, as well as the implementation of local benefits which flow from such license agreements, in exchange for the use of the public right of way by incumbent and competitive cable television companies. I strenuously oppose the 90-day cable television licensing period proposed as impractical, and detrimental to the Commonwealth's cities and towns.

**II. The Proposed Regulation Would Gut the Licensing Process and Frustrate Municipal Ability to Negotiate Cable Franchises Responsive to Community Needs.**

As summarized by the Cable Division, under the regulation proposed by Verizon, the process would be as follows:

"No later than 60 days after the application is filed, the issuing authority would hold a public hearing to assess the qualifications of the applicant (Proposed Regulation 3.10(1)). The Issuing Authority's assessment of the applicant would be limited to the application, any amendments thereto, and oral and other testimony on the hearing record (Proposed Regulation 3.10(2)). Following the hearing, the issuing authority would have 30 days in which to issue its written decision, and if the application is approved, issue a license (Proposed Regulation 3.10(4))." Cable Division's Notice at p.3.

I strenuously oppose the proposal to reduce initial cable television licensing to ninety (90) days. The proposal would drastically and unfairly gut the municipal cable licensing process. In such a timeframe, Mayors and Boards of Selectmen, acting in their capacity as license Issuing Authorities, would not have nearly enough time to responsibly and prudently review the license

applicant's proposal and qualifications, identify important community cable needs, hold multiple negotiations sessions, undertake extensive document drafting or revisions, conduct related meetings and hearing(s), all as inevitably needed in the licensing process. The historical record of licensing shows that the foregoing cannot be completed in 90 days and the Cable Division is well aware of this. The Division therefore should exercise its discretion to not adopt extreme rules that would gut local licensing.

As a member of a local town's cable advisory committee, I must point out that I receive no salary nor compensation for this work, nor do the elected members of the Board of Selectmen who must make the ultimate decision regarding cable television licensing. It may well be that well-paid employees of cable and telecommunications corporations, working full-time, are able to issue a draft of a cable television license in 30 days, and resolve any questions on their side within the 90-day window; however, it is important to remember the very part-time nature of citizen government in the municipalities of the Commonwealth. Most such elected bodies meet only once each week for a few hours, or, more frequently, twice each month. While most communities have professional and skilled volunteers to advise them through the Cable Advisory Committee process, these bodies also are able to meet infrequently. This is the way in which local governments are run.

It is critical the Cable TV Division not ignore this essential fact of life for municipalities in the Commonwealth. The municipalities are best equipped to determine a fair and equitable compensation for the use of their public right of way by for-profit cable television operators. It is inaccurate to describe the process employed to determine this compensation as anti-competitive, since one competitive operator in the Commonwealth, RCN, has succeed in negotiating cable TV license agreements, using the existing license periods and process in twenty-one communities in Eastern Massachusetts: Allston, Arlington, Boston, Brighton, Brookline, Burlington, Dedham, Framingham, Hyde Park, Lexington, Natick, Needham, Newton, Roslindale, Somerville, Stoneham, Wakefield, Waltham, Watertown, West Roxbury and Woburn.

Further, the majority cable television operator in the Commonwealth, Comcast, has built a thriving industry over the past three decades – through successive ownership transfers starting with Continental Cablevision – by following the existing cable TV licensing process. It is unfair and anti-competitive to allow Verizon to enter the cable television licensing process with rules more favorable to its entry than those which have existed for majority incumbent Comcast, and competitive provider, RCN.

Finally, it is of utmost importance that the Division acknowledge the vital communications resources for local residents created by the existing cable TV licensing process. The Commonwealth has the highest number per capita of public-educational-governmental (PEG) access facilities in the country, and more PEG centers than any other state except California. These PEG centers provide important infrastructure enhancements such as supplemental communications during emergency conditions, constituent services such as the coverage of meetings of local elected bodies, and numerous opportunities for local residents to engage in the exchange of talent, information and ideas on important local issues. Recognizing the success of PEG in the Commonwealth, competitive entrant RCN has become a willing and energetic partner in support of PEG access channels and facilities, and such support by Comcast has been steadfast. But negotiating the benefits which best suit a local municipality, and which do not endanger the entrant's competitive viability *takes time*.

Surely, it is not in the interest of the residents of the Commonwealth, nor of the Cable TV Division to make rule changes which will endanger this PEG access success story and render them stranded benefits of a new scheme. It does not serve the public interest for new competitors to play by a different set of rules, nor for the Division to adopt such rules to the detriment of local cities' and towns' ability to regulate the uses of their public rights of way. The proposed rule changes would gut the ability of municipalities to maintain such regulation, would harm the public interest, and would diminish the competitive marketplace neutrality of existing cable television licensing procedures.

Respectfully submitted by:

Paul D. Berg, Executive Director  
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